

REMARKS

Applicant is submitting herewith new claims 19-36 which are based upon previously amended and original claims 1-18. The language of the new claims has been changed somewhat from the original claims to make it more understandable for the Examiner to discriminate the differences between the invention and the prior art cited against the original claims in the Office Action of February 21, 2006.

New Claims

By this Amendment, Applicant has added new claim 19-36 to this application. The aforementioned claims have been added to traverse the Examiner's rejections, as well as to correct various informalities and, also, to better clarify what Applicant regards as the invention. It is believed that the new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

Claims 19 and 30 are directed towards a sticker set including a packing bag having a ***sealed upper edge*** and an open lower edge with an adhesive-applied flap downwardly extending, the ***open lower edge being prefolded*** to be folded upward to close the opening at said open lower edge and a ***hanging hole located between the upper edge and a top edge of the substrate***. Claims 19 and 30 are further directed towards a set of individual 3D decorative stickers ***together creating a specific view***, the 3D decorative stickers being configured to ***display a 3D effect when in said packing bag***. Claim 30 is further directed towards a set of individual 3D decorative stickers showing costumes and animals ***being arranged on said substrate to create a specific fairy-tale view***. In addition, dependent claims are further directed towards a set of 3D decorative stickers formed by ***different stacked, and overlapping substantially planar parts***.

New claim 36 is directed towards a set of 3D decorative stickers having ***different stacked and overlapped substantially planar parts to together form a scene with visual depth***.

Tamanini teaches a method of labeling gifts using adhesive backed gift labels in the form of stickers 26 on a release sheet 22. As admitted by the Examiner on page 4 of the most recent Office Action, the flap of the package 20 does not include a self-adhesive strip for closing an opening of the package 20. In addition, as admitted by the Examiner on page 5 of the most recent Office Action, Tamanini does not teach 3D stickers.

Tamanini does not teach: a sticker set including a packing bag having a sealed upper edge and an open lower edge with an adhesive-applied flap downwardly extending, the open lower edge being prefolded to be folded upward to close the opening at said open lower edge and a hanging hole located between the upper edge and the substrate; a set of individual 3D decorative stickers together creating a specific view, the 3D decorative stickers being configured to display a 3D effect when in said packing bag; a set of individual 3D decorative stickers showing costumes and animals being arranged on said substrate to create a specific fairy-tale view; a set of 3D decorative stickers are formed by overlapping different constituent parts; or a set of 3D decorative stickers having stacked and overlapped different planar parts to together form a scene with visual depth.

Yamagata teaches a packaging article 1 having a flap 6 with adhesive tape. The flap has a folding line cut in the body 7 which must be folded after articles are placed in the package (Col. 2, ll. 46-50). A hole 14 is located in the center of the folding line 13. It is important to note that the flap is not prefolded, but is rather folded along the cut line after the package is filled. Applicant's also note that the location of the hole is a weak point in the package and, as compared with Applicant's invention, will more likely cause the package to burst result in the hanging ripping out and the package dropping from the display case.

Yamagata does not teach: a sticker set including a packing bag having a sealed upper edge and an open lower edge with an adhesive-applied flap downwardly extending, the open lower edge being prefolded to be folded upward to close the opening at said open lower edge and a hanging hole located between the upper edge and the substrate; a set of individual 3D decorative stickers together creating a specific view, the 3D decorative stickers being configured to display a 3D effect when in said packing bag; a set of individual 3D decorative stickers showing

costumes and animals being arranged on said substrate to create a specific fairy-tale view; a set of 3D decorative stickers are formed by overlapping different constituent parts; or a set of 3D decorative stickers having stacked and overlapped different, planar parts to together form a scene with visual depth.

Belokin is cited as teaching 3D stickers. However, it is important to note that Belokin fails to teach a set of 3D decorative stickers are formed by overlapping different constituent parts; a set of 3D decorative stickers having stacked and overlapped different planar parts to together form a scene with visual depth; a set of stickers together arranged in the display package to form a specific view (fairy-tale, or otherwise); or that the stickers together display a 3D effect in the packing bag.

In addition, Belokin fails to teach: a sticker set including a packing bag having a sealed upper edge and an open lower edge with an adhesive-applied flap downwardly extending, the open lower edge being prefolded to be folded upward to close the opening at said open lower edge and a hanging hole located between the upper edge and the substrate; a set of individual 3D decorative stickers together creating a specific view, the 3D decorative stickers being configured to display a 3D effect when in said packing bag; a set of individual 3D decorative stickers showing costumes and animals being arranged on said substrate to create a specific fairy-tale view; a set of 3D decorative stickers are formed by overlapping different constituent parts; or a set of 3D decorative stickers having stacked and overlapped different, planar parts to together form a scene with visual depth.

Lisenbigler is cited as teaching as teaching a 3D sticker with curled paper of predetermined widths and overlapping fashion in the form of a bow. It is important to note that the bow itself is not a 3D sticker, but rather is a gift bow riveted to a sticker with a removable, peel-off sheet 24. In addition, the curved ribbons are not planar, nor they disclose that they together form a 3D scene (fairy tale or otherwise).

In addition, Lisenbigler fails to teach: a sticker set including a packing bag having a sealed upper edge and an open lower edge with an adhesive-applied flap downwardly extending, the open lower edge being prefolded to be folded upward to close the opening at said open lower edge and a hanging hole located between the upper edge and the substrate; a set of individual 3D decorative stickers together

creating a specific view, the 3D decorative stickers being configured to display a 3D effect when in said packing bag; a set of individual 3D decorative stickers showing costumes and animals being arranged on said substrate to create a specific fairy-tale view; a set of 3D decorative stickers are formed by overlapping different constituent parts; or a set of 3D decorative stickers having stacked and overlapped different, planar parts to together form a scene with visual depth.

Tayebi is cited as teaching a transparent substrate.

Tayebi fails to teach: a sticker set including a packing bag having a sealed upper edge and an open lower edge with an adhesive-applied flap downwardly extending, the open lower edge being prefolded to be folded upward to close the opening at said open lower edge and a hanging hole located between the upper edge and the substrate; a set of individual 3D decorative stickers together creating a specific view, the 3D decorative stickers being configured to display a 3D effect when in said packing bag; a set of individual 3D decorative stickers showing costumes and animals being arranged on said substrate to create a specific fairy-tale view; a set of 3D decorative stickers are formed by overlapping different constituent parts; or a set of 3D decorative stickers having stacked and overlapped different, planar parts to together form a scene with visual depth.

Even if the teachings of Tamanini, Yamagata, Belokin et al., Linsenbigler and Tayebi were combined, as suggested by the Examiner, the resultant combination does not suggest: a sticker set including a packing bag having a sealed upper edge and an open lower edge with an adhesive-applied flap downwardly extending, the open lower edge being prefolded to be folded upward to close the opening at said open lower edge and a hanging hole located between the upper edge and the substrate; or a set of individual 3D decorative stickers together creating a specific view, the 3D decorative stickers being configured to display a 3D effect when in said packing bag; a set of individual 3D decorative stickers showing costumes and animals being arranged on said substrate to create a specific fairy-tale view.

Nor does the combination suggest: a set of 3D decorative stickers are formed by overlapping different constituent parts; or a set of 3D decorative stickers having stacked and overlapped different, planar parts to together form a scene with visual depth.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when

resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Tamanini, Yamagata, Belokin et al., Linsenbigler or Tayebi that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Tamanini, Yamagata, Belokin et al., Linsenbigler nor Tayebi disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's new and amended claims.

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Summary

It is believed that new claims 19-36 are also in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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